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In re Patent No. 6,891,175 :
Issued: May 10, 2005 :
Application No. 09/915,325 : PATENT TERM ADJUSTMENT
Filed: July 27, 2001 :
Atty. Dkt. No.: 862.C2315 :

OFFICE OF PETITIONS

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed June 23, 2005.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,891,175 on May 10, 2005. The instant request for reconsideration was timely filed June 23, 2005 in accordance with 37 C.F.R. § 1.705(d).

The patent issued with a PTA of 301 days. Applicant argues that the adjustment of 421 days for Office delays was improperly reduced 120 days in connection with the submission of a "Request for Corrected Notice of Allowability."

A review of the application reveals that an adjustment of 423 can be attributed to the Office¹. The adjustment of 423 days was properly reduced two days in accordance with 37 CFR 1.704(b)².

The Office errantly reduced the adjustment 120 days in connection with the "MISCELLANEOUS INCOMING LETTER" filed March 31, 2004. A review of the official application file reveals that the March 31st 2004 submission was, as indicated by applicant, a request for corrected Notice of Allowability. The submission of this specific request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability" is not considered a failure to engage in reasonable

¹ An adjustment of 215 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed in accordance with 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1); a further adjustment of 208 days can be attributed to the Office for failure to issue the patent within four months of payment of the issue fee in accordance with 37 C.F.R. §§ 1.702(a)(4) and 1.703(a)(4).

² The adjustment began June 13, 2004, the day after the date that is three months after the date that the Notice of Allowance was mailed, and ended June 14, 2004, the date of payment of issue fee.

efforts to conclude prosecution (or processing) within the meaning of 37 C.F.R. § 1.704(c)(10).

Thus, at the time of issuance, the patent was entitled to a PTA 421 days, as argued by applicant.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 421 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 421 days.

The required application fee of \$200.00 has been charged to applicant's deposit account as authorized.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
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Enclosure: Draft Certificate of Correction